



September 10, 2018

Thomas Hintermister  
Federal Election Commission  
Assistant Staff Director  
Audit Division  
1050 First Street NE  
Washington D.C., 20463

VIA E-MAIL

**Re: *Response to Draft Final Audit Report***

Dear Mr. Hintermister:

This responds to the Draft Final Audit Report of the Federal Election Commission's (the "Commission") Audit Division concerning the 2015-2016 election cycle activities of the Friends of Erik Paulsen Committee (the "Committee").

As an initial matter, the Committee is troubled by the Audit Division's refusal to provide additional time for the Committee to review and respond to the Draft Final Audit Report. The Committee requested an extension after a phone conference with the auditors on August 30, 2018, less than two weeks before this response was due. During that call, the Committee's treasurer raised several concerns about the audit's use of statistical projections—namely, the sampling of 125 items that may have led to inaccurate findings. The Committee sought additional time so that it could closely review the auditors' projections and ensure that the audit has been carried out fairly.

Nonetheless, the Committee believes this audit should be closed without any findings. The Draft Final Audit Report's sole finding resulted from statistical projections that do not account for information provided to the auditors. So, even if the auditors were justified in relying on projections, those projections depend on inaccurate assumptions and should have been recalculated to account for additional information produced by the Committee during the audit. These issues were raised in response to the Interim Audit Report, but the Draft Final Audit Report does not even take them into account. Accordingly, the Committee once again raises them here, and asks that the Commission close the audit with no findings. At the very least, the Commission must demand that the Audit Division revise its projections as required by 11 C.F.R. § 9038.1(f)(2).

Paid for by Friends of Erik Paulsen

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- A. The Final Audit Report wrongly calls certain contributions “excessive” even though the Committee has demonstrated that every donor received a reattribution or redesignation letter when warranted during the 2016 cycle.**

Throughout the audit, the Committee has been required to address (and correct) erroneous allegations that it failed to send timely reattribution and redesignation letters. On at least three occasions, the Committee corrected allegedly excessive contributions by pointing the Audit Division to timely letters already produced by the Committee. Following the audit exit conference, the Audit Division requested the Committee review a spreadsheet of additional allegedly excessive contributions, and other contributions of \$1,000 or greater, and then “go through the committee’s records and find items, similar to the ones we found during field work, that require a redesignation/reattribution letter to be sent to the contributor.” The Audit Division indicated that if the Committee sent new reattribution or redesignation letters to donors “found during field” work and identified on the spreadsheet, “this should address the issue we presented at the exit conference.”

The Committee again pointed out that—contrary to the Audit Division’s representations—the Committee had produced reattribution and redesignation letters for nearly all the contributions on which the auditors intended to rely for their statistical projections. The Audit Division acknowledged that the Committee addressed and resolved each of the sample items in an e-mail to the Committee’s treasurer on March 1, 2018 in which the auditor confirmed that “the Committee addressed and resolved the remaining 100% review items (\$31,800.00) with its submission of redesignation/reattribution letters.”

For the remaining allegedly excessive contributions, the Committee produced additional evidence showing that letters resolving excessive contributions were timely sent to all donors identified by the Audit Division. That evidence includes (1) proof that every donor received a solicitation before the donor made the contribution explaining that the donor’s contribution would be reallocated or redesignated and (2) a letter from the Committee’s representative explaining that she specifically recalled sending timely reallocation or redesignation letters at the time the contribution was reallocated or redesignated to *every person* on the Audit Division’s list of supposedly excessive contributions. It is true that the Committee’s representative had saved over some letters, and so the Committee did not have copies of every letter it sent. But the explanation provided by the Committee’s representative, and the fact that every contributor received notice of the Committee’s reallocation/redesignation practices before making a contribution, should have been sufficient for the Commission to conclude that all donors knew that their contributions had been appropriately redesignated or reallocated.

Finally, to eliminate any doubt about whether donors received reattribution or redesignation letters, the Committee sent a new round of redesignation and reattribution letters to every donor whose contribution was reallocated or redesignated during the 2015-2016 election cycle. There can be no question that every allegedly excessive contribution from the 2015-2016 cycle was resolved by the Committee. Therefore, to the extent the Final Audit Report Committee continues to claim there were any “excessive” contributions, it is incorrect. The Committee resolved every excessive contribution from the 2015-2016 cycle.

The Commission should have accepted the Committee’s evidence demonstrating that the Committee sent a reallocation or redesignation letter in every instance where a letter was warranted. This should resolve the audit—which at this point reflects, at most, a minor recordkeeping issue. Because no findings of “excessive contributions” are warranted, and the audit should be closed with no findings.

- B. Even if the Commission were justified in ignoring the Committee’s evidence, the Commission is required to re-calculate its projections according to 11 C.F.R. § 9038.1(f)(2) based on information provided by the Committee.**

When an audit relies on statistical sampling for its findings, the audited Committee may demonstrate that “any apparent errors found among the sample items were not errors.” Upon such a showing, the Commission must revise its projection based on the reduced number of errors in the sample. 11 C.F.R. § 9038.1(f)(2).

Here, the Committee presented evidence that every sample item relied on by the Audit Division was not, in fact, an error. As noted above, for every sample item identified as a potentially excessive contribution, the Committee resolved the Commission’s concerns by producing either (1) evidence that the potentially excessive contribution was refunded or (2) a letter redesignating or reattributing the donor’s contribution.

The Committee’s evidence resolved the auditors’ concerns regarding the alleged errors in the sample items. Because those concerns were resolved, as a matter of regulation, the Audit Division cannot use those sample items as the basis for statistical projections. *See* 11 C.F.R. § 9038.1(f)(2).

The Committee previously raised this concern in response to the Interim Audit Report. Yet the Audit Division seems to have ignored them, and—despite the requirements in the regulations did not recalculate its projections. The Committee believes that, before accepting a final audit report, the Commission should require the Audit Division to recalculate its projections.

Mr. Thomas Hintermister  
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Sincerely,

A handwritten signature in black ink, appearing to read 'D. Asp', written in a cursive style.

David W. Asp  
Treasurer